



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JUANITO ANRO SALVADOR,
KEN RUSSEL SALVADOR and
MICHAEL SALVADOR,
Petitioners,

G.R. No. 234681

Present:

CAGUIOA, J., *Chairperson*,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

- versus -

Promulgated:

May 29, 2024

MISPOCB-ht

MARIA MINDA A. SALVADOR, for
herself and in representation of the
minors ALEXIS SALVADOR,
JEFFREY SALVADOR, ANTHONY
SALVADOR, and HYACINTH
SALVADOR YEE,
Respondents.

x-----x

RESOLUTION

SINGH, J.:

Before the Court is a Petition for Review on *Certiorari*,¹ under Rule 45 of the Rules of Court, assailing the Decision,² dated March 30, 2017, and the Resolution,³ dated August 25, 2017, of the Court of Appeals (CA) in CA-G.R. CEB CV No. 05292. The CA upheld the Regional Trial Court

¹ *Rollo*, p. 8–32.

² *Id.* at 66–81. Penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Marilyn B. Lagura-Yap and Germano Francisco D. Legaspi of the Eighteenth Division, Court of Appeals, Cebu City.

³ *Id.* at 83–89. Penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Marilyn B. Lagura-Yap and Germano Francisco D. Legaspi of the Former Eighteenth Division, Court of Appeals, Cebu City.

(RTC) Decision,⁴ dated November 11, 2013, finding that Franklin Salvador (**Franklin**) is the legitimate child of Anatolio Salvador (**Anatolio**).

The Facts

Maria Minda A. Salvador (**Maria**) sought to claim co-ownership over properties inherited by her brother-in-law, Juanito Anro Salvador (**Juanito**) from the latter's parents Anatolio Salvador (**Anatolio**) and Rosario Canoy Salvador (**Rosario**). Maria insisted that her late husband, Franklin Salvador (**Franklin**), was also the son of Anatolio and Rosario. There is no dispute that Rosario is Franklin's mother, but Juanito asserted that Franklin's father is Celedonio Salvador (**Celedonio**), Rosario's second husband, after Anatolio.

It is also agreed that Franklin was born after Anatolio died, though his exact birth date is disputed. The parties diverge on the date of Anatolio's death, Juanito claimed that his father died in 1942, whereas Maria asserted that he died on April 4, 1944. Maria alleged that Franklin was born on September 30, 1944, after Anatolio's death, but before Rosario's second marriage. Juanito contended that even before Anatolio's death, Rosario was already cohabiting with Celedonio, and that Franklin was the result of the cohabitation.⁵

In 1976, Juanito migrated to the United States of America. On February 16, 1977, his mother Rosario signed a Sworn Statement of the True Current and Fair Market Value of Real Properties which constituted Juanito's inheritance from Anatolio. Rosario designated herself merely as the administrator on behalf of the owner, Juanito.⁶

In 1993, Franklin registered his own birth, supplying his information and signing as the "Informant" in the Certificate of Live Birth. Rosario was still alive at this time but did not sign or certify that she attended the birth of Franklin. Rosario died on October 24, 1995. Franklin died on May 31, 2000, leaving behind children from different women, his surviving wife, Maria and their children, Alexis, Jeffrey, and Anthony, all surnamed Salvador.⁷

In 2001, Juanito returned to Cebu and discovered that Franklin had disposed of some of the properties Juanito inherited from Anatolio. Some properties appeared to have been sold after Franklin had already died. Also

⁴ RTC records, p. 348-361. The Decision in Civil Case No. AV-1320 was penned by Judge Maximo A. Perez of Branch 26, Regional Trial Court, Argao Cebu.

⁵ *Rollo*, p. 67-72.

⁶ *Id.* at 37.

⁷ *Id.* at 38.



in 2001, Maria filed two Complaints for Estafa against Juanito, which were dismissed by the Office of the Provincial Prosecutor. Maria filed a Petition for Review with the Department of Justice, which denied the petition.⁸

In 2005, Maria and her children Alexis, Jeffrey, and Anthony, as well as Franklin's daughter with another woman, Hyacinth, all surnamed Salvador (collectively, **Maria, et al.**), instituted a Complaint for Declaration of Nullity of Documents, Reconveyance of Property, Partition, Recovery of Possession, Quieting of Title, Damages with Prayer for Preliminary Injunction against Juanito, as well as Ken Russel Salvador and Michael Salvador, who are Franklin's sons from his first wife, (collectively, **Juanito, et al.**).⁹ The case was docketed as Civil Case No. AV-1320 before the RTC, Branch 26, Argao, Cebu.¹⁰

In their Complaint¹¹ before the RTC, Maria, et al. alleged that Anatolio and Rosario acquired several pieces of real property, which should have been passed on to Juanito and Franklin after their parents' deaths. Maria, et al. claimed that the properties should have been transferred to them after Franklin's death, as his heirs. They presented 30 Tax Declarations pertaining to these properties. Maria, et al. assert that Juanito caused the partition, subdivision and adjudication of some of these properties, including the shares belonging to Maria, et al. as heirs of Franklin.¹²

Maria, et al. claimed that they made several attempts to "enter the property [sic] or take possession thereof, or gather the fruits"¹³ as well as oral demands against Juanito but they were prevented from the "beneficial use, enjoyment and participation of the said property [sic][.]"¹⁴ The Complaint did not specify which property or properties they were referring to, however, they alleged that Juanito continued to enjoy the fruits of the properties including the "ancestral house."¹⁵

In his Answer,¹⁶ Juanito asserted that the properties claimed by Maria, et al. are the exclusive properties of Anatolio, who is not Franklin's father. He claimed that he and Franklin were raised as full-blood brothers, but he had heard from others that this was not true.¹⁷

⁸ *Id.* at 38–39.

⁹ *Id.* at 39–40.

¹⁰ RTC records, p. 348.

¹¹ *Id.* at 2–8.

¹² *Id.* at 2–4.

¹³ *Id.* at 4.

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 4–5.

¹⁶ *Id.* at 52–56.

¹⁷ *Id.* at 54.



In their Formal Offer of Exhibits,¹⁸ Maria, et al. repeatedly stated that Franklin is entitled to a “one-half share” of these properties since he is the full-blood brother of Juanito.¹⁹ As to the two properties registered in Franklin’s name, Maria, et al. stated that Juanito was also claiming those as his own properties since these were inherited from Anatolio.²⁰ Juanito admitted the existence and genuineness of all the Tax Declarations, but opposed the claim that Franklin was entitled to any share.²¹ As to the Tax Declarations in Franklin’s name, Juanito stated that these were “[proof] of usurpation of [Juanito’s] lawful rights by [Maria, et al.]”²² In the RTC Decision, the trial court stated that Maria sought to divide the properties placed in Juanito’s name since Franklin is also a son of Anatolio.²³ It appears from the foregoing that the subject properties are part of the estate of Anatolio, which ought to be divided among his legal heirs. The parties merely disagree as to whether Franklin is an heir entitled to a share therein.

The Ruling of the RTC

On November 11, 2013, the RTC rendered its Decision in favor of Maria, et al. The RTC held that the Certificate of Live Birth of Franklin, being a public document, constitutes sufficient proof of filiation. Furthermore, the filiation may be proved by other documents and testimony respecting one’s pedigree, such as family bibles. A member of the family, whether by consanguinity or affinity, may even testify as to the reputation of a person in the family existing before the controversy.²⁴ The RTC thus found that the record of birth combined with the documentary evidence pertaining to Anatolio’s death in 1944 clearly established Franklin’s legitimacy. The RTC held:

In the case at bar, the plaintiffs have shown that Franklin Salvador is the son of Anatolio Salvador, as evidenced by the Certificate of Live Birth appearing in the civil register of the Local Civil Registrar’s Office in Dalaguete, Cebu, marked Exhibit “HH”, thereby showing that Franklin Salvador was born on September 30, 1944. Under Article 172 of the Family Code, it is provided that the filiation of legitimate children is established by the record of birth appearing in civil register. In addition thereto, the plaintiffs presented a Letter, dated November 1, 1947, from the Philippine Legion, Cebu Chapter, signed by Abel F. Trazo, Chapter Commander, addressed to Mrs. Anatolio Salvador (Rosario Salvador), indicating that Anatolio Salvador died on April 4, 1944, and the same is marked Exhibit “NN”. Moreover, the plaintiffs further presented the Record of Deaths in the old family Holy Bible, marked Exhibit “PP”, showing among others, “4/4/44” as the date of death of Anatolio M.

¹⁸ RTC records, pp. 149–172.

¹⁹ *Id.* at 151–153.

²⁰ *Id.* at 153.

²¹ *Id.* at 175–176.

²² *Id.* at 176.

²³ *Id.* at 350.

²⁴ *Id.* at 358–359.



Salvador. It shows that Anatolio Salvador died on April 4, 1944, or at least, five months prior to the date of birth of Franklin Salvador, who was born on September 30, 1944.²⁵

The RTC further held that Maria, et al. have successional rights over the property of Anatolio since they proved Maria's marriage to Franklin and the latter's paternity over his children. The Tax Declarations covering the properties of Juanito should be cancelled, given that Franklin is mandatorily a co-owner of the properties of their father. As a final point, the RTC ruled that damages could not be awarded since neither party presented proof of the amounts claimed.²⁶ The RTC disposed of the case:

WHEREFORE, in view of all the foregoing, a decision is hereby rendered in favor of the plaintiffs and against the defendants, as follows:

1. Declaring all documents of alienation of the property of plaintiffs as null and void;
2. Ordering the defendants to reconvey the subject lots to the plaintiffs so the latter can take possession of the same; and
3. Ordering the defendants to render accounting of all monies as proceeds of fruits of the land made subjects of the instant case.

SO ORDERED.²⁷

Juanito, et al. then appealed to the CA.

The Ruling of the CA

On March 30, 2017, the CA rendered a Decision²⁸ denying the appeal and affirming the RTC Decision. The CA, citing *Reyes, et al. v. Enriquez, et al.*²⁹ and *Heirs of Ypon v. Ricaforte*³⁰ ruled that the declaration of heirship is allowed in an ordinary civil action when the parties voluntarily submitted the issue, presented evidence thereon, and the RTC had rendered judgment. The CA thus affirmed and restated the RTC's ruling on Franklin's legitimacy. The CA added as follows:

With regard appellant's contention to the effect that Franklin Salvador is not the biological child of Anatolio Salvador, we find the same bereft of merit.

Appellant merely relied on the affidavit/testimony of Tecia Bagayas where she stated that Franklin Salvador could not be the son of Anatolio because the latter died in 1942 or two years prior to the birth of

²⁵ *Id.* at 359.

²⁶ *Id.* at 359–361.

²⁷ *Id.* at 361.

²⁸ *Rollo*, p. 66–81.

²⁹ 574 Phil. 245 (2008) [Per CJ Puno, First Division].

³⁰ 713 Phil. 570 (2013) [Per J. Perlas-Bernabe, Second Division].



Franklin in 1944. Appellees on the other hand were able to present a Letter dated November 1, 1947, from the Philippine Legion Cebu Chapter, signed by Abel F. Trazo, Chapter Commander, to the effect that that Anatolio died on April 4, 1944. They also presented a Certification issued by the General Headquarters, AFP, Office of the Adjutant General which included Franklin Salvador as one of the children/beneficiaries of Anatolio. Appellants further presented the Records of Death in the old family Holy Bible showing “4/4/44” as the date of death of Anatolio.

Moreover, the Certificate of Live Birth of Franklin Salvador clearly indicated that his father was Anatolio Salvador. A birth certificate, being a public document, offers [*prima facie*] evidence of filiation and a high degree of proof is needed to overthrow the presumption of truth contained in such public document. This is pursuant to the rule that entries in official records made in the performance of his duty by a public officer are [*prima facie*] evidence of the facts therein stated. The evidentiary nature of such document must, therefore, be sustained in the absence of strong, complete[,] and conclusive proof of its falsity or nullity.³¹ (Citation omitted)

The CA also rejected Juanito, et al.’s argument that the Certificate of Live Birth may not be considered because it is a delayed registration. The CA cited *Baldos v. Court of Appeals*,³² which held that a delayed registration of birth being a public document is *prima facie* evidence of the truth of the facts stated therein. The CA thus disposed of the case:

WHEREFORE, the appeal is **DENIED**, the Decision dated November 11, 2013 rendered by the Regional Trial Court, Seventh Judicial Region, Branch 26, Argao, Cebu, in Civil Case No. AV-1320 is hereby **AFFRIMED** in toto.

SO ORDERED.³³ (Emphasis in the original)

On August 25, 2017, the CA issued its Resolution³⁴ denying the Motion for Reconsideration. Hence, the present Petition.

The Issue

Whether the CA erred in affirming the RTC in finding that Franklin was also a son of Anatolio and Rosario.

The Ruling of the Court

³¹ *Rollo*, p. 79.

³² 638 Phil. 601 (2010) [Per J. Carpio, Second Division].

³³ *Rollo*, p. 81.

³⁴ *Id.* at 83–89.



Juanito claims to be the only son of Anatolio and Rosario. Juanito et al. claimed before the RTC that Anatolio died in 1942, two years before Franklin was allegedly born in 1944. Maria et al., however, presented several witnesses and documentary evidence to prove that Anatolio died in 1944. Conversely, Juanito testified that he did not seek proof of his father's date of death and relied only on the word of others.³⁵ Both the RTC and the CA agreed that Maria, et al. had sufficiently proven that Anatolio died in 1944.

It is well established that the Court is not a trier of facts. The Court's function in petitions for review on *certiorari* under Rule 45 is limited to reviewing errors of law that may have been committed by the lower courts or tribunals. It is not this Court's function to analyze or weigh evidence that have already been considered in the lower courts, especially in this case where the RTC and CA agree as to the sufficiency of the evidence presented.³⁶ At this stage of the proceedings, it must be beyond debate that Anatolio died on April 4, 1944.

Juanito, et al. mainly question the RTC's appreciation of Franklin's Birth Certificate, which was belatedly registered in 1993. Juanito, *et al.* assert that the RTC erred in admitting Franklin's Birth Certificate because the same was acquired through delayed registration and applied for by Franklin alone, without any other person attesting to his date of birth.

In the case of *Baldos v. Court of Appeals*, the Court explained the probative value of a delayed registration of birth:

*Applications for delayed registration of birth go through a rigorous process. The books making up the civil register are considered public documents and are prima facie evidence of the truth of the facts stated there. As a public document, a registered certificate of live birth enjoys the presumption of validity. It is not for Reynaldo to prove the facts stated in his certificate of live birth, but for petitioners who are assailing the certificate to prove its alleged falsity. Petitioners miserably failed to do so. Thus, the trial court and the Court of Appeals correctly denied for lack of merit the petition to cancel the late registration of Reynaldo's birth.*³⁷ (Emphasis supplied, citations omitted)

Notably, Juanito, et al. did not object to the authenticity and due execution of Franklin's Birth Certificate before the RTC. They merely asserted that the same is "self-serving," from the simple fact that Franklin caused such registration. Neither did they present any evidence to

³⁵ TSN, Juanito Anro Salvador, Hearing of November 11, 2009, p. 26-27.

³⁶ *Marken, Inc. v. Landbank of the Philippines*, G.R. No. 221060, (2023) [Per C.J. Gesmundo, First Division] at 13. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³⁷ *Baldos v. Court of Appeals*, 638 Phil. 601, 608 (2010) [Per J. Carpio, Second Division].



corroborate their allegations that Franklin did not comply with the process for delayed registration. Furthermore, this argument is being raised for the first time on appeal.

Considering the foregoing, the Court finds that both the RTC and the CA were correct in appreciating Franklin's Birth Certificate, specifically his date of birth stated therein as September 30, 1944.

Juanito, et al. contend that per *Ara v. Pizarro*,³⁸ a delayed registration of birth, made after the death of the putative parent, is tenuous proof of filiation.³⁹ In *Ara*, however, the claimant heirs were admittedly illegitimate and had registered their birth only after the case was initiated. Hence, there were serious doubts as to the filiation of the claimants to their alleged mother.

In this case, Franklin registered his birth in 1993, while his mother Rosario was still alive, and more than a decade before Maria, et al. filed their Complaint in 2005.

In addition to Franklin's Birth Certificate, Maria, et al. presented witnesses and a Certification from the Armed Forces of the Philippines identifying Franklin among Anatolio's beneficiaries at the time of his death in 1944. Again, both the RTC and the CA found the evidence sufficient to establish Franklin's birth date. Franklin was born on September 30, 1944, only five months after Anatolio's death and prior to Rosario's second marriage. Hence, Franklin was conceived during Anatolio's and Rosario's marriage and is deemed their legitimate child.⁴⁰

Juanito, et al. claimed that the Complaint filed before the RTC is an action to claim Franklin's legitimacy and must be barred since Anatolio is already deceased. The Court disagrees, the wording of the Family Code is definitive under these circumstances:

ARTICLE 164. Children conceived or born during the marriage of the parents are legitimate.

Children conceived during the marriage of the parents are deemed by law to be legitimate children. Under the Family Code and the Revised Rules of Evidence,⁴¹ proof of legitimacy is necessary when the child is born more than 300 days after the termination of marriage. In this case, Franklin was

³⁸ *Ara v. Pizarro*, 805 Phil. 759 (2017) [Per J. Leonen, Second Division].

³⁹ *Id.* at 780.

⁴⁰ FAMILY CODE, art. 169.

⁴¹ RULES OF COURT, Rule 131, sec. 4, as amended by A.M. No. 19-08-15-SC, October 8, 2019.



born only 179 days after Anatolio's death. When the law provides for the presumption, the burden falls upon the opposing party to prove otherwise.

It appears from the records that Juanito never questioned Franklin's legitimacy before this case. The Court has consistently ruled that the legal status of children in relation to their parents can never be contested as a defense or as a collateral issue in another action for a different purpose. Such challenge must be made in a proper action before a competent court.⁴² Juanito sought to prevent the nullification of documents and reconveyance of the subject properties by arguing that Franklin is not a child of Anatolio. This constitutes a collateral attack on Franklin's legal status, which the Court may not entertain in this case. As explained in *Tison v. Court of Appeals*,⁴³ "[t]here is no presumption of the law more firmly established and founded on sounder morality and more convincing reason than the presumption that children born in wedlock are legitimate." *Tison* explains that this doctrine prevents the status of a child from being in a state of uncertainty since an attack on legitimacy may only be done within the periods and upon the grounds provided by law.⁴⁴

Even assuming that such an argument could be raised here, Juanito has not complied with the periods under Article 170 of the Family Code, nor has he established any of the grounds provided in Article 166. Hence, Franklin enjoys the presumption of legitimacy. The Court, therefore, finds that the RTC and CA were correct in maintaining that he is an heir of Anatolio.

As a final issue, Juanito, et al. asserted that the RTC erred in ordering that the subject properties be reconveyed to Maria, et al., since at most they are entitled to only one-half of Anatolio's estate. The Court agrees. To determine the appropriate share to be awarded to Maria, et al., the applicable law is the Spanish Civil Code, since Anatolio died in 1944.⁴⁵ The Spanish Civil Code provides as follows:

ARTICLE 807. The following are forced heirs:

1. Legitimate children and descendants, with respect to their legitimate parents and descendants;

....

ARTICLE 808. The legitime of legitimate children and descendants consists of two-thirds of the hereditary estate of the father and of the mother.

⁴² *Republic v. Boquiren*, G.R. No. 250199, February 13, 2023 [Per J. Inting, Third Division].

⁴³ 342 Phil. 550 (1997) [Per J. Regalado, Second Division].

⁴⁴ *Id.* at 558.

⁴⁵ See *Noel v. Court of Appeals*, 310 Phil. 89 (1995) [Per J. Quiason, First Division].



Nevertheless, they may dispose of one of the two thirds forming the legitime in order to apply it as a betterment to their legitimate children or descendants.

They may freely dispose of the remaining third.

....

ARTICLE 834. A widower or widow who, on the death of his or her spouse, is not divorced, or should be so by the fault of the deceased, shall be entitled to a portion in usufruct equal to that corresponding by way of legitime to each of the legitimate children or descendants who has not received any betterment.

If only one legitimate child or descendant survives, the widower or widow shall have the usufruct of the third available for betterment, such child or descendant to have the naked ownership until, on the death of the surviving spouse, the whole title is merged in him [or her].

If the spouses should be separated by a suit for divorce, the result of the suit shall be awaited.

If there should have been a pardon or a reconciliation between the divorced spouses, the survivor shall preserve his or her rights.

Considering the foregoing, upon Anatolio's death, two-thirds of his estate was automatically transferred to his surviving legitimate children, Juanito and Franklin. As to the remaining one-third portion, Juanito and Franklin acquired its naked ownership while the widow, Rosario, enjoyed a usufruct. Upon Rosario's death, full ownership over the entirety of Anatolio's estate was vested in Juanito and Franklin. In effect all of Anatolio's estate will be divided in two, Juanito and Franklin each taking half. Upon Franklin's death in 2000, his share in Anatolio's estate was inherited by his heirs pursuant to the provisions of the Family Code and the Civil Code of the Philippines.

It should be pointed out that while the records show that the parties and the lower courts assumed that Juanito, et al. and Maria, et al. are the only rightful claimants of these properties, there appears no definitive finding on this issue. A close reading of the records shows that Juanito testified that the properties originally belonged to Anatolio's parents. These properties were already divided between Anatolio and his sister, although no partition or settlement of estate was presented. Juanito also testified on re-direct examination that Rosario had other children with her second husband, Celedonio Salvador, but again no evidence was presented to support this assertion. Neither the RTC nor the CA provided any discussion on the existence or rights of these alleged heirs.

Moreover, the lower courts made no determination as to whether or not the subject properties belong solely to Anatolio or to the conjugal



partnership of his marriage. In the case of conjugal partnership, the properties of Anatolio and Rosario would have to be divided equally between the spouses in accordance with the Spanish Civil Code before passing down to their respective heirs.⁴⁶

The Court finds that the parties are co-owners of the subject properties, however, the reconveyance may only proceed after partition. The record shows that Maria, et al. filed a case for “Declaration of Nullity of Documents, Reconveyance of Property, Partition, Recovery of Possession, Quieting of Title and Damages with Prayer for Preliminary Injunction,” although they did not mention partition their prayer.⁴⁷ In its ruling, RTC confined itself to the reliefs prayed for, without ordering partition. Nevertheless, a partition of the properties is necessary before the parties can effect the Order for Reconveyance, as held in *Reyes v. Spouses Garcia*:⁴⁸

The spouses Garcia and all the co-owners cannot adjudicate to himself or herself title to any definite portion of the subject property until its actual partition by agreement or judicial decree. In *Carvajal v. Court of Appeals*, which We reiterated in *Heirs of Jarque v. Jarque*, We ruled that:

The action for ejectment and recovery of possession instituted by herein respondents in the lower court is premature, for what must be settled first is the action for partition. Unless a project of partition is effected, each heir cannot claim ownership over a definite portion of the inheritance. Without partition, either by agreement between the parties or by judicial proceeding, a co-heir cannot dispose of a specific portion of the estate. For where there are two or more heirs, the whole estate of the decedent is, before its partition, owned in common by such heirs. Upon the death of a person, each of his [or her] heirs becomes the undivided owner of the whole estate left with respect to the part or portion which might be adjudicated to him [or her], a community of ownership being thus formed among the co-owners of the estate or co-heirs while it remains undivided.

While under Article 493 of the New Civil Code, each co-owner shall have the full ownership of his [or her] part and of the fruits and benefits pertaining thereto and he [or she] may alienate, assign or mortgage it, and even substitute another person in its enjoyment, the effect of the alienation or the mortgage with respect to the co-owners, shall be limited, by mandate of the same article, to the portion which may be allotted to him [or her] in the division upon the termination of the co-ownership. He [or She] has no right to sell or alienate a concrete, specific, or

⁴⁶ SPANISH CIVIL CODE OF 1889, Art. 1392. “By virtue of the conjugal partnership the earnings or profits obtained by either of the spouses during the marriage belong to the husband and the wife, share and share alike, upon its dissolution.”

⁴⁷ RTC Records, pp. 2–8.

⁴⁸ G.R. No. 225159, March 21, 2022 [Per J. Hernando, Second Division]

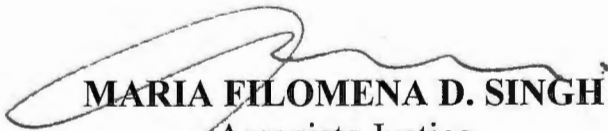


determinate part of the thing in common to the exclusion of the other co-owners because his [or her] right over the thing is represented by an abstract or ideal portion without any physical adjudication. *An individual co-owner cannot adjudicate to himself [or herself] or claim title to any definite portion of the land or thing owned in common until its actual partition by agreement or judicial decree. Prior to that time all that the co-owner has is an ideal or abstract quota or proportionate share in the entire thing owned in common by all the co-owners. What a co-owner may dispose of is only his [or her] undivided aliquot share, which shall be limited to the portion that may be allotted to him [or her] upon partition.* Before partition, a co-heir can only sell his [or her] successional rights.⁴⁹ (Emphasis in the original)

Generally, a special civil action for partition cannot be joined with an ordinary civil action for reconveyance.⁵⁰ However, erroneously joined causes of action may be resolved together provided the parties did not object and no severance order has been issued by the court.⁵¹ Now, even if the Complaint did not specifically pray for partition, Maria, et al. are claiming a share of the subject properties by asserting Franklin's rights as an heir of Anatolio. These claims suffice to establish a cause of action for partition.⁵² Thus, and as this Court so orders, the partition and reconveyance should be carried out by the RTC in order to fully resolve the case at hand.

FOR THESE REASONS, the Petition is **DENIED**. The Decision, dated March 30, 2017, and the Resolution, dated August 25, 2017, of the Court of Appeals in C.A.-G.R. CEB CV No. 05292 are **AFFIRMED** with the modification that the case be **REMANDED** to the Regional Trial Court, Branch 26, Argao, Cebu which is **DIRECTED** to issue an order requiring the parties to implead the other indispensable parties, if any, for the determination of their respective rights and to proceed with partition and reconveyance.

SO ORDERED.


MARIA FILOMENA D. SINGH
Associate Justice

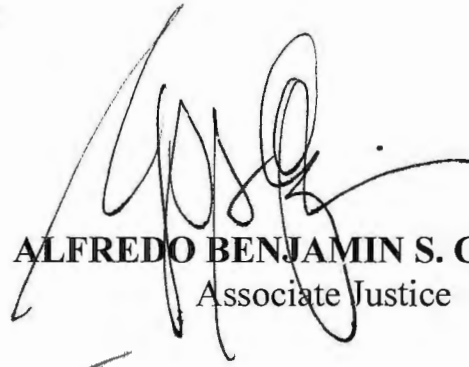
⁴⁹ *Id.* at 7–8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁵⁰ RULES OF COURT, Rule 2, sec. 5(b).

⁵¹ *Ada v. Baylon*, 692 Phil. 432, 444 (2012) [Per J. Reyes, Second Division].

⁵² RULES OF COURT, Rule 69, sec. 1.

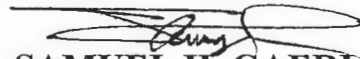
WE CONCUR:



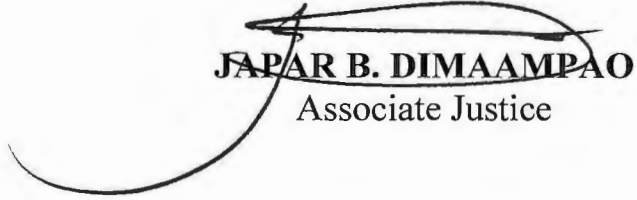
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



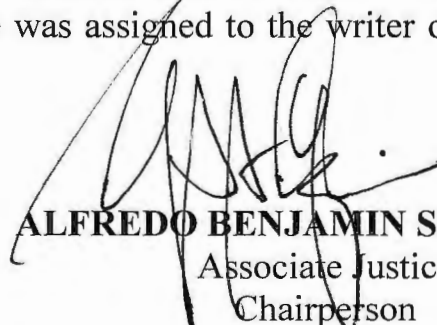
SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

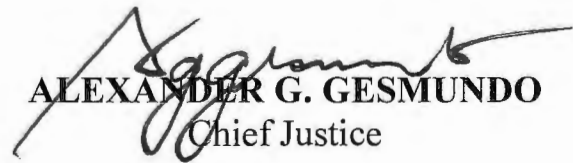
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice

